

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Annie De Las Nueses	Team: Team # 8	CCRB Case #: 200302054	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/15/2003 12:15 PM	Location of Incident: Parsons Boulevard and Archer Boulevard, Queens.		Precinct: 103	18 Mo. SOL 9/15/2004	EO SOL 9/15/2004
Date/Time CV Reported Wed, 03/19/2003 2:35 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 03/19/2003 2:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Reinaldo Alvarez	15342	927853	103 Precinct
2. POM Marc Costa	21839	915508	103 Precinct

Officer(s)	Allegation	Investigator Recommendation
A.POM Reinaldo Alvarez	Abuse: PO Reinaldo Alvarez threatened to arrest § 87(2)(b)	
B.POM Reinaldo Alvarez	Abuse: PO Reinaldo Alvarez issued summons for reckless driving and failure to comply with an order to § 87(2)(b)	
C.POM Marc Costa	Discourtesy: PO Marc Costa acted rudely toward § 87(2)(b)	

## Synopsis

On March 15, 2003, § 87(2)(b) pulled into a no standing zone to talk on his cellular phone. He was approached by PO Alvarez and issued a summons. He claimed that after stating that the summons was “stupid” the officer threatened to arrest him (Allegation A). He further alleged PO Alvarez issued him two additional summonses in retaliation for making the comment. (Allegation B). At the conclusion of the incident § 87(2)(b) refused to accept the summonses and he alleged that PO Alvarez’s partner, PO Costa, then acted discourteously when he threw the summonses and his identification in his face (Allegation C). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

## Summary of Complaint

§ 87(2)(b) is a Black § 87(2)(b) -old § 87(2)(b) who filed his complaint personally at the CCRB on March 20, 2003 (enc. 5a-b). He stated that on the afternoon of March 15, 2003, he pulled into a ‘no standing’ zone, in order to answer his cellular phone call from his girlfriend, § 87(2)(b). He had been scheduled to pick her up as she was shopping along Jamaica Avenue in Queens. As they spoke, a patrol vehicle pulled up right behind § 87(2)(b)’s van. An officer, who was later identified as PO Costa, stepped out of the vehicle and began writing out summonses to other cars that were parked in “no standing” zones across the street. Though he was still on the phone with his girlfriend, § 87(2)(b) decided to move his car before he too was issued a summons. At that time the passenger, identified as PO Alvarez, got on the intercom and said, “don’t move that vehicle”. In an attempt to explain to the officer that he had pulled over to answer a short phone call, § 87(2)(b) opened the driver’s side door of his van. However, PO Alvarez ordered him not to get out of the vehicle and he complied. Then PO Alvarez walked over to § 87(2)(b)’s car and began issuing him a summons for standing in a no standing zone. When the officer completed the summons, § 87(2)(b) who was already agitated, stretched his hand out and said “officer give me the ticket”. PO Alvarez looked at § 87(2)(b) and dropped the summons on the hood of the car instead of handing it to him, and started to make his way back to the vehicle. § 87(2)(b) then stepped out of the van and reviewed the summons. Then he loudly exclaimed that the ticket was “stupid”, as he had noticed that the officer wrote 3:15 PM instead of the accurate time, which was 12:15 PM. PO Alvarez assumed that § 87(2)(b) was addressing him and returned to approach § 87(2)(b). He asked § 87(2)(b) whom he was calling stupid, and then asked him for his license and registration. § 87(2)(b) replied by asking why the officer needed his identification. He added that he had done nothing wrong and declined to provide the officer with the identification until he articulated what, if any, violation he had committed. PO Alvarez asked § 87(2)(b) for his license and registration a second time. § 87(2)(b) indicated that he felt entitled to know the reason he was about to be issued an additional summons and asked PO Alvarez to explain what he had “done wrong”. PO Alvarez continued to demand § 87(2)(b)’s driving information before finally threatening § 87(2)(b) with arrest. He stated, “license and registration, if you don’t give it to me I’m going to arrest you!” He then called for his partner PO Costa, who was still across the street. At that time § 87(2)(b) complied and provided his identification. After PO Costa informed § 87(2)(b) he was disobeying an order, § 87(2)(b) stepped back into his van.

PO Costa approached PO Alvarez and both returned to their patrol vehicle for about 20 minutes. Eventually they pulled up beside § 87(2)(b)’s van. This time, PO Costa, who was

driving, extended his hand and tried to return the identification wrapped with additional summonses to § 87(2)(b) but § 87(2)(b) refused to take them. Again, § 87(2)(b) demanded to know what he had done to warrant the issuance of more summonses. PO Costa still had his hand extended when he shouted, “you won’t take the summons, you won’t take the summons!” PO Costa then put the vehicle in park, stepped out and walked around § 87(2)(b) s car. He then took the summonses and the license and threw them directly in § 87(2)(b) s face and left. Once the officers left the scene, a Black male named § 87(2)(b) approached § 87(2)(b) and stated that he had observed the entire incident unfold and gave § 87(2)(b) his cellular phone number and offered to vouch for his account of the incident. § 87(2)(b) who was actually waiting for § 87(2)(b) across the street from the onset of his encounter, also observed the incident.

During his interview at the CCRB, § 87(2)(b) was presented with mediation as an alternative method for resolving his complaint. He consented and added that he wanted to address the officer personally and discuss the implications of the incident with him. The Alternative Dispute Resolution Department reviewed the case. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

### Results of Investigation

§ 87(2)(b)

§ 87(2)(b) a Black § 87(2)(b) -old § 87(2)(b), was interviewed by the CCRB on April 25, 2003 (enc. 6a-b). She testified that she had been shopping in the stores along Jamaica Avenue, a large commercial district in Queens and had several bags with her when she called § 87(2)(b). She asked him for a ride home and then directed § 87(2)(b) to the general area where she would be waiting for him. While standing at the Q4 bus stop on Archer Avenue she observed § 87(2)(b) s green livery van pass by her and pull over in front of the Federal Building across the street. She immediately pulled out her cellular phone and called § 87(2)(b) to advise him that she was standing across the street from where he was stationed. They were still on the phone when she observed a patrol vehicle pull up several feet behind § 87(2)(b) s van. At that time, § 87(2)(b) was saying “where are you, I don’t see you”. § 87(2)(b) observed the officer identified as PO Costa step out of the van, he then crossed the street and began writing summonses. She continued her conversation with § 87(2)(b) and when he realized that she was across the street he tried to pull off, moving the van less than a foot towards the road. § 87(2)(b) testified that at that point she heard “don’t move” from what sounded like a loud speaker and observed § 87(2)(b) s van come to a complete stop. Apparently, the officer was talking to § 87(2)(b) because moments later, the officer identified as PO Alvarez stepped out of the patrol vehicle and approached § 87(2)(b) s car. He appeared to be filling out a summons. § 87(2)(b) denied seeing § 87(2)(b) get out of the van to pick something up off the hood of the van. She recalled that § 87(2)(b) had one hand on the steering wheel and the other was out of the window. § 87(2)(b) stated that from where she stood she could not hear what was being said between the officer and § 87(2)(b) s § 87(2)(b). § 87(2)(b) corroborated the remainder of § 87(2)(b) s account. Though § 87(2)(b) observed PO Costa park the patrol car next to the van, step out and approach § 87(2)(b) she could not be certain that he threw the summonses in § 87(2)(b) s face. She recalled that PO Costa had the summonses in his hand and that when he approached the window he threw them in. She testified that when she spoke to § 87(2)(b) immediately after the incident he was outraged and stated that the officer had “no manners”.

### **Attempts to locate other witnesses**

§ 87(2)(b) stated that a Black male named § 87(2)(b) approached him after the incident to provide his cellular phone number and offer his assistance. § 87(2)(b) had claimed that he observed the incident and was willing to testify on § 87(2)(b)'s behalf. However, when the undersigned called the number § 87(2)(b) provided, the number was out of service. Without a last name or further contact information, § 87(2)(b) could not be identified and his testimony was not obtained.

After obtaining a list of the summonses issued by PO Costa on the date of the incident, it was confirmed that he was indeed issuing summonses across the street at the time of the incident (enc. 11a-c). At 12:05 he issued a summons to a vehicle registered to § 87(2)(b). Then at 12:10 he issued another summons to a vehicle registered by § 87(2)(b). Addresses for both were obtained by accessing the Department of Motor Vehicle database and two contact letters were sent to each. A Verizon subpoena failed to provide a telephone number for § 87(2)(b)'s home and there was no response from the letters that were sent. On July 17, 2003 the undersigned visited § 87(2)(b)'s home in § 87(2)(b) in an attempt to obtain a statement however, no one was home at the time.

The telephone number for § 87(2)(b) was obtained and after leaving several messages he called the agency on July 24, 2003. He stated that he rents out his vans to different drivers and on the date of the incident an individual named § 87(2)(b) had been driving the van that was summonsed by PO Costa. He was only able to provide a cellular phone number and § 87(2)(b) was finally reached on December 1, 2003. During the conversation, he stated that he would contact the undersigned in regards to the incident; however, to date he has not contacted the undersigned and the cellular number is currently out of service.

### **Police Officer Testimony**

#### **PO Marc Costa, 103<sup>rd</sup> Precinct**

PO Costa was interviewed by the CCRB on April 4, 2003 (enc. 10a-b). He testified that he had been writing summonses for livery vans that were standing in "no standing" zones, when he looked back and saw PO Alvarez step out of the patrol vehicle and approach § 87(2)(b)'s van. He observed PO Alvarez standing on the side of the van, taking down the registration information. From where he stood, which according to him was about 50 feet away, he could also hear § 87(2)(b) yelling and arguing with PO Alvarez. However, at that time, PO Costa did not feel that the situation warranted him going over and he continued writing. Seven or eight minutes later, he walked over to where his partner and § 87(2)(b) were located. § 87(2)(b) was still protesting the summons, had stepped out of the vehicle and was waving his arms about. He testified that PO Alvarez tried to explain to § 87(2)(b) why he was being issued the summons. By then there were people in vans as well as the bus stop that were watching and forming a crowd. PO Costa asked § 87(2)(b) to step back into his vehicle because in his estimation he was starting to act "disorderly". After returning to the patrol vehicle PO Alvarez issued § 87(2)(b) two additional summonses, but when he tried to give them to § 87(2)(b) he refused to accept them. According to PO Costa, PO Alvarez is new on the job and seemed like he "just did not know how to get § 87(2)(b) to take the summonses". Ultimately, PO Costa also approached § 87(2)(b) with the summonses and tried to get him to take them. When he continued to refuse, PO Costa

walked up to the driver's side window and threw them in. He clarified that the summonses were thrown on the floor of the vehicle and not in § 87(2)(b)'s face.

PO Costa admitted he never saw § 87(2)(b) driving recklessly but, he claimed PO Alvarez told him § 87(2)(b) drove the car towards him and stated that was likely the reason § 87(2)(b) was issued a summons for "reckless driving".

### Summonses

PO Alvarez issued three summonses to § 87(2)(b) on March 15, 2003. The "no standing (bus stop) was issued at 12:15, however, PO Alvarez incorrectly logged the date, 3/15, in the time slot as 3:15. The "reckless driving" summons for VTL violation 1212, No. § 87(2)(b) was issued at 12:20 PM, while the "failure to comply with order" summons for VTL 1102, No. § 87(2)(b) was issued at 12:25 PM.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

According to the NYC Department of Parking Violations, On April 15, 2003, a traffic court judge found § 87(2)(b) not guilty of the violation specified on summons No. § 87(2)(b) which was issued for standing in a no standing zone.

### PO Reinaldo Alvarez, 103<sup>rd</sup> Precinct

PO Alvarez was interviewed at the CCRB on April 14, 2003 (enc.). PO Alvarez stepped out of his vehicle and approached a van, which was located about 20 feet into the bus stop. He testified that the vehicle was unoccupied, and it did not seem that anyone was waiting to get in. He stood on the driver's side of the van as he gathered registration information from the window sticker. PO Alvarez was in the middle of filling out the summons when the driver of the vehicle, § 87(2)(b) returned. Before he re entered his vehicle, PO Alvarez requested § 87(2)(b)'s license and registration information. He explained that for his safety as well as the officer's, he needed the information to ensure that he wasn't going to drive away. § 87(2)(b) refused to give PO Alvarez the information he requested, and got into his vehicle and closed the door. PO Alvarez explained to § 87(2)(b) that he was parked in a bus stop, but § 87(2)(b) kept repeating "I'm leaving, I'm leaving." as he started the van and tried to take off. PO Alvarez stated that he was standing directly in front of the vehicle and could have been run over by the van. PO Alvarez later clarified that he was standing by the passenger side taking down information when § 87(2)(b) tried to leave. PO Alvarez stated that the van jerked forward less than a foot, when he asked § 87(2)(b) to stop. Later on during the interview, PO Alvarez stated that it was after § 87(2)(b)'s van had jerked forward that he had asked for the license and registration information.

PO Alvarez did not feel the need to call PO Costa for back up because he felt the situation was under control. After he obtained the information he went back to his vehicle to complete writing the summons for "no standing" as it was not completed yet. PO Alvarez also determined that he would be issuing § 87(2)(b) two more summonses, one for reckless driving and the other for failure to comply with orders. PO Alvarez denied that the first summons was placed on the hood of the vehicle, and states that all the summonses were handed to § 87(2)(b) at the same time. Later during the interview PO Alvarez clarified that he did indeed use the PA system, when he

returned to the vehicle to complete the summonses. PO Alvarez stated that § 87(2)(b) was stepping in and out of his vehicle and that his actions could have posed a potential danger. For that reason, PO Alvarez stated through the PA system “get back into your car”. When PO Alvarez had completed writing up the summonses he stepped out of his vehicle and approached § 87(2)(b). He stated “here are your summonses sir”, but § 87(2)(b) refused to take them. At that time PO Alvarez explained to him what the summons were for, that he could have hit him with the car and that although he was asked numerous times to stay in his vehicle, and not to move his car, he refused to do so. PO Alvarez denied that § 87(2)(b) ever reviewed the summons and stated aloud that it was “stupid”, he also stated that he never responded “who are you calling stupid”. He never heard § 87(2)(b) protesting the fairness of the summons and stated that there was no crowd of onlookers at the time this incident occurred.

At the time that § 87(2)(b) almost hit PO Alvarez with his vehicle, PO Alvarez stated “sir, you are failing to comply with an officer, this could be an arrest situation” However at no time did he threaten him with arrest. PO Alvarez explained that he was only stating what could happen to § 87(2)(b). PO Costa never tried to assist PO Alvarez with giving the summonses to § 87(2)(b). PO Alvarez denies that anyone threw the summonses at § 87(2)(b)'s face and stated that he placed all three summonses on the windshield of the car. Later during the interview PO Alvarez suggested that he would have been unaware if there was any interaction between PO Costa and § 87(2)(b) because PO Costa stayed in the vehicle at the conclusion of the encounter.

#### **Criminal Conviction History of § 87(2)(b)**

According to the Booking Arraignment and Disposition System, § 87(2)(b) has no arrests in New York since 1990.

#### **PO Alvarez's CCRB History**

PO Alvarez has only been a member of service for one year and is therefore a probationary officer. He has no substantiated CCRB allegations in his history (enc. 3a).

#### **PO Costa's CCRB History**

PO Costa has no substantiated allegations in his CCRB history.

### **Conclusions and Recommendations**

#### **Officer Identification**

§ 87(2)(b) identified PO Reinaldo Alvarez as the subject officer in this complaint, by reading the officer's name from the summonses that were issued at the time of the incident. The officer interviews confirmed that PO Alvarez was the officer who had contact with § 87(2)(b).

#### **Credibility**

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) acknowledged that he was standing in a no standing zone and that he tried to pull off from the location when he observed PO Costa step out and begin to summons vans that were parked directly across the street. § 87(2)(b) admitted that he stepped out of the vehicle to protest the summons and that he refused to comply with PO Alvarez's orders. § 87(2)(g)

§ 87(2)(g)  
[REDACTED]

§ 87(2)(b)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] § 87(2)(b) acknowledged that § 87(2)(b) stepped out of the vehicle to approach the officers and described § 87(2)(b) as having a “bad temper”. She testified that she observed PO Costa drop the summonses in the car and not in § 87(2)(b) s face as he had testified. § 87(2)(g)  
[REDACTED]  
[REDACTED]

#### PO Alvarez

§ 87(2)(g)  
[REDACTED]  
[REDACTED] He claimed that § 87(2)(b) almost struck him with his vehicle, yet he did not immediately request assistance from his partner. § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] PO Costa did not corroborate PO Alvarez’s claim that there was no crowd gathered at the time of the incident and he admitted that at no time did he see § 87(2)(b) driving recklessly. PO Alvarez altered his testimony and implied that § 87(2)(b) never called him “stupid”, § 87(2)(g)  
[REDACTED] Further, he claimed he never heard § 87(2)(b) protest the validity of the summons, § 87(2)(g)  
[REDACTED] indicating that it was he that gave § 87(2)(b) the summonses when in fact it was PO Costa. He claimed that he placed all three summonses on the windshield of the car, when PO Costa admitted that it was he that eventually had to throw the summonses into the car because § 87(2)(b) refused to take them.  
§ 87(2)(g)  
[REDACTED]  
[REDACTED]

#### PO Costa

§ 87(2)(g)  
[REDACTED]  
[REDACTED] PO Costa testified that § 87(2)(b) was in the van when PO Alvarez was issuing the first summons and

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

It is undisputed that § 87(2)(b) parked his van in a “no standing” zone on Archer Avenue in Jamaica, and that at some point during this incident he attempted to move his vehicle and did so, for a distance of about 1 foot. Also undisputed is the fact that PO Alvarez approached § 87(2)(b) and asked him for his license and registration and initially, § 87(2)(b) refused to provide them. Eventually, three summonses were issued to § 87(2)(b) (no standing, reckless driving, failure to comply with orders). Other facts that are not in dispute include that PO Alvarez used the Public Address system, that PO Alvarez informed § 87(2)(b) that he could be arrested, and that at some point PO Costa joined PO Alvarez at the scene.

§ 87(2)(g)

§ 87(2)(g)



§ 87(2)(b)

§ 87(2)(b)

As noted in PD v. PO Vincent Haynes, “...even where a member is being heckled by a prisoner, the member is required to exercise self-restraint and is not permitted to respond in kind.” § 87(2)(g)

§ 87(2)(b)

face. § 87(2)(g)

§ 87(2)(b) and threw the summonses into the car. § 87(2)(g)

Date:

Date:

Date:

Date: